

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
FILED

AUG - 3 2020

Richard A. Smith Jr.

ID. 03666-087

Your full name

U.S. DISTRICT COURT-WVND  
WHEELING, WV 26003

FEDERAL CIVIL RIGHTS  
COMPLAINT  
(BIVENS ACTION)

v.

Civil Action No.: 5:20-cv-154  
(To be assigned by the Clerk of Court)

CO Sines Hospital Transport Officer  
CO #1 Hospital Transport Officer  
CO #2 Hospital Transport Officer

Bailey  
Mazzone  
Blalock

Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Name of Plaintiff: Richard A. Smith Jr. Inmate No.: 03666-087  
Address: Federal Correctional Institution, Hazelton, P.O. Box  
5000, Bruceton Mills, W.Va. 26525

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

B. Name of Defendant: CO Sines  
 Position: Federal Corrections Officer  
 Place of Employment: FCI Hazelton  
 Address: P.O. Box 5000, Bruceton Mills, W.Va. 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: First Officer I met  
~~and~~ was searched by before transported to Hospital

B.1 Name of Defendant: Name unknown at this point - CO John Doe No.1  
 Position: Federal Corrections Officer - Transport for Medical  
 Place of Employment: Federal Complex, Hazelton  
 Address: P.O. Box 5000 Bruceton Mills, W.Va. 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Officer transported  
me from hospital, refused to get shoes from RxD  
had me walk from outside Institution to Medical in  
stocking feet knowing that I was recovering from Pneumonia

B.2 Name of Defendant: Name unknown at this point CO John Doe No.2  
 Position: Federal Corrections Officer - Transport for Medical  
 Place of Employment: Federal Complex, Hazelton  
 Address: P.O. 5000, Bruceton Mills, W.Va. 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Officer transported me  
from hospital, refused to get shoes from R+D, had me  
walk from outside Institution to Medical in my stocking feet  
knowing that I was recovering from Pneumonia

B.3 Name of Defendant: \_\_\_\_\_  
Position: \_\_\_\_\_  
Place of Employment: \_\_\_\_\_  
Address: \_\_\_\_\_

Was this Defendant acting under the authority or color of federal state  
law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B.4 Name of Defendant: \_\_\_\_\_  
Position: \_\_\_\_\_  
Place of Employment: \_\_\_\_\_  
Address: \_\_\_\_\_

Was this Defendant acting under the authority or color of federal state  
law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B.5 Name of Defendant: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Place of Employment: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: F.C.I Hazelton, P.O. Box 5000, Bruceton Mills, W.Va. 26525

A. Is this where the events concerning your complaint took place?  
☒ Yes ☐ No

If you answered "NO," where did the events occur?  
 \_\_\_\_\_

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☐ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?  
☒ Yes ☐ No

D. If your answer is "NO," explain why not: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 Filed BP 8-Tried to make this a tort claim

LEVEL 2 Filed BP 9-refused to respond, stamped date and returned

LEVEL 3 Filed BP 10-refused to respond, stamped date and returned

IV. **PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES**

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No

B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "IV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. Court: \_\_\_\_\_  
(If federal court, name the district; if state court, name the county)

3. Case Number: \_\_\_\_\_

4. Basic Claim Made/Issues Raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Name of Judge(s) to whom case was assigned:

\_\_\_\_\_

6. Disposition: \_\_\_\_\_  
(For example, was the case dismissed? Appealed? Pending?)

7. Approximate date of filing lawsuit: \_\_\_\_\_

8. Approximate date of disposition. Attach Copies: Sept. 8, 2019

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?

☒ Yes ☐ No

D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

Filed all paperwork, and at one point I was informed  
that nothing was going to happen, you took us to court  
Quote

E. Did you exhaust available administrative remedies?

☒ Yes ☐ No

F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.

Filed BP 8 - Unit Manager tried to make claim a tort claim  
BP-9 - no relief or response, Worden refused to answer  
BP-10 - Informed that I didn't include 9, which I had done, refused  
to respond, stamped 2 dates, refused to respond,  
BP-11 Filed to Region stamped and sent back

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

1. Parties to previous lawsuit:

Plaintiff(s): N/A  
 Defendant(s): N/A

2. Name and location of court and case number:

N/A

3. Grounds for dismissal: ☐ frivolous ☐ malicious  
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: N/A

5. Approximate date of disposition: N/A

#### V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: Deliberate Indifference

Supporting Facts: Made to walk from outside Institution to medical  
center

*to medical inside Institution, made to strip before arriving at Hospital, refused to supply shoes.*

CLAIM 2:

Supporting Facts:

CLAIM 3:

Supporting Facts:

CLAIM 4:

Supporting Facts:



CLAIM 5:

Supporting Facts:

## VI. INJURY

Describe **BRIEFLY** and **SPECIFICALLY** how you have been injured and the exact nature of your damages.

*Deliberate Indifference - No Sick call at a level 3 Federal Medical Facility  
Waited 2 hours with pneumonia with no treatment, strip searched before being  
medical transferred by an ambulance (an Emergency), Forced to walk without shoes,  
in socks across compound when just released from Hospital (with Pneumonia), no medical  
evaluation nor prescription given for 5 days (2 ordered) withholding physician ordered Med.  
not seen by physician for 5 days after hospital released me (should have been within 24 hours  
Hospital Doctor prescribed 2 medications given 1 with wrong dose, never received Doctors prescript  
19 days later*

## VII. RELIEF

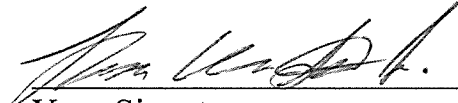
State **BRIEFLY** and **EXACTLY** what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.

*Force Institution to have protocol for Officers transporting inmates to and from Hospital  
be compensated for damages for deliberate indifference (pecuniary Damages)*

## DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at FCI Hazelton on 5-9-20.  
(Location) (Date)

  
Your Signature

Attachment E

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Richard A. Smith Jr.

# 03666-087

Your full name



FILED



AUG - 3 2020

U.S. DISTRICT COURT-WVND  
WHEELING, WV 26003

v.

Civil Action No.: 5:20-cv-154

CO Sines Medical Transport

CO John Doe 1, Medical Transport

CO John Doe 2, Medical Transport

Enter above the full name of defendant(s) in this action

Certificate of Service

I, Richard A. Smith Jr. (your name here), appearing *pro se*, hereby certify that

I have served the foregoing Civil Action Suit (title of document

being sent) upon the defendant(s) by depositing true copies of the same in the United States

mail, postage prepaid, upon the following counsel of record for the defendant(s) on

\_\_\_\_\_ (insert date here):

(List name and address of counsel for defendant(s))

Counsel for Defendants  
UNKNOWN

Richard A. Smith Jr.

(sign your name)